

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAVARIS FORTSON and
TERRIANA FORTSON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TIEKESHA FORTSON,

Respondent-Appellant,

and

MONTRIAL ARMS and TERRANCE WARE,

Respondents.

UNPUBLISHED

April 21, 2005

No. 258208

Calhoun Circuit Court

Family Division

LC No. 02-001801-NA

Before: Kelly, P.J., and Sawyer and Wilder, JJ.

PER CURIAM.

Respondent Tiekeshia Fortson appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(ii) and (j). We affirm.

Respondent appeals from an order terminating her parental rights on the ground that the trial court failed to state findings of fact and a conclusion of law with regard to the children's best interests on the record, even though best interests evidence was presented during the course of the proceeding. Both MCR 3.977(G)(3), which is applicable under the particular facts of this case, and MCL 712A.19b(5) state that the trial court must terminate parental rights once it finds clear and convincing evidence of a statutory ground under MCL 712A.19b(3), unless it finds that termination is clearly contrary to the children's best interests. Pursuant to MCR 3.977(H), the trial court is required to state brief, definite and pertinent findings of fact and conclusions of law regarding contested matters on the record before terminating parental rights. The entire record is considered when making a best interests determination. *In re Trejo Minors*, 462 Mich 341, 354-355; 612 NW2d 407 (2000). A consideration of best interests provides one last opportunity to avoid termination and inures to the benefit of the child. *Id.* at 356. This Court has held that

where neither party proffers any best interests evidence, the trial court need not make a best interests finding. *In re Gazella*, 264 Mich App 668, 677-678; 692 NW2d 708 (2005).

In the present case, best interests evidence was presented by petitioner, but not by respondent. The trial court made specific, definite and pertinent findings of fact on the record, but did not separately state whether some findings related to the sufficiency of a statutory ground for termination and some to the children's best interests. The sufficiency of the trial court's findings must be reviewed in the context of the specific legal and factual issues raised by the parties and the evidence. *People v Rushlow*, 179 Mich App 172, 177; 445 NW2d 222 (1989). Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Armstrong*, 175 Mich App 181, 184; 437 NW2d 343 (1989); *DeVoe v C A Hull, Inc*, 169 Mich App 569, 576; 426 NW2d 709 (1988).

A complete review of the record shows that the trial court was aware of the best interests issue. Various referees questioned the parties regarding best interests and considered the children's best interests at various hearings, particularly at the permanency planning hearing at which it was stated that the children's best interests were served by proceeding to termination. Evidence was heard at the termination hearing regarding whether the children were bonded to respondent and regarding parties interested in adopting the children. In its opinion, the trial judge noted that respondent had not offered any evidence at the termination hearing showing why her parental rights should not be terminated, and stated that it had expected respondent to give the trial court the benefit of her opinion. It noted her continued lack of independent housing and income, and failure to benefit from parenting classes despite three referrals. The entire record shows full consideration of the children's best interest throughout the proceedings and that the trial court was aware of the best interests issue.

Review also shows that the trial court correctly applied the law. The record showed that at least one statutory ground for termination was established, and did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. Termination was therefore mandated. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. The order terminating parental rights was not entered prematurely or improperly and reversal or remand is not warranted.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ David H. Sawyer
/s/ Kurtis T. Wilder